

Environmental Assessment Revitalization Process

**Discussion Paper Engagement
August 2018**

Overview

- Environmental assessment (EA) revitalization process update
- Overview of the Discussion Paper
 - What We Heard
 - Proposed EA process
- Next steps in EA revitalization

EA Revitalization Process Update

The Premier of British Columbia has mandated the Minister of Environment and Climate Change Strategy (Minister George Heyman) to:

“Revitalize the Environmental Assessment process ... to ensure the legal rights of First Nations are respected, and the public's expectation of a strong, transparent process is met.”

Objectives of Revitalization

EA revitalization is intended to result in changes to EA legislation, regulations, policies and practices that:

- Enhance public confidence, transparency and meaningful participation
- Advance reconciliation with First Nations
- Protect the environment while offering clear pathways to sustainable project approvals

WHAT WE HAVE DONE AND WHAT IS NEXT:

The Environmental Assessment Revitalization process





ENVIRONMENTAL ASSESSMENT REVITALIZATION DISCUSSION PAPER



Discussion Paper Overview

- Brings together input from the three streams of engagement
- Identifies actions the Province is considering and potential key features of a revitalized Act
 - Codifies or advances existing practices, and
 - Includes new practices
- Addresses the 3 objectives of revitalization
- Breaks down the revitalized process step by step
- Identifies key questions for feedback/consideration

EA Revitalization

What We Heard Overview

What We Heard: Indigenous Groups

- Recognition of Indigenous governments as decision makers
- Early engagement enables development of positive relationships
- Indigenous information requirements inform project design/development
- Predictable and sufficient capacity funding
- Option for Indigenous-led assessments

What We Heard: Industry Associations

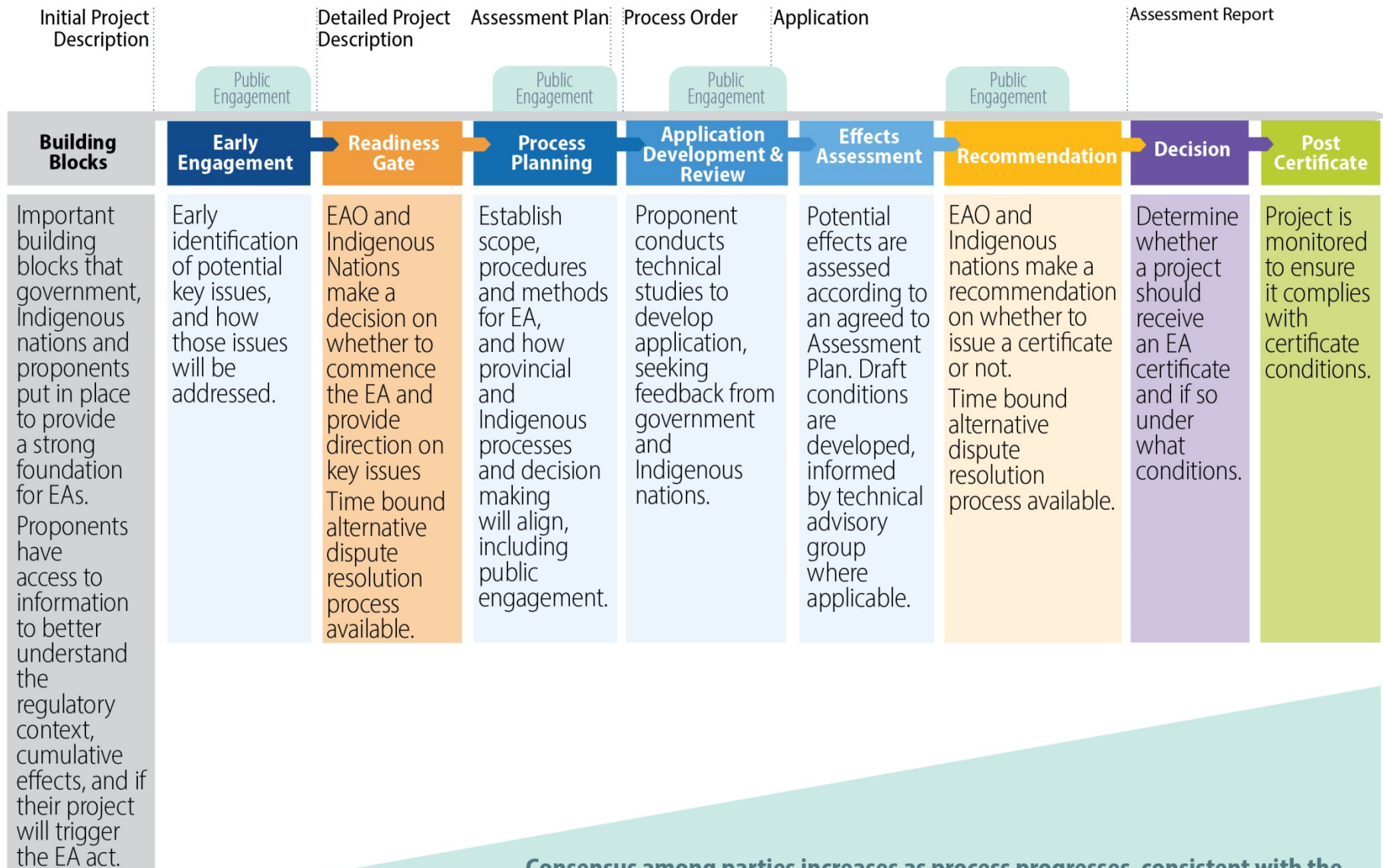
- Investor confidence
- Certainty and predictability of EA process
- Many aspects of the current EA process are successful
- Flexibility for individual proponents to employ new or innovative approaches including the ways in which proponents build and advance relationships with Indigenous groups and stakeholders

What We Heard: Non-Government Organizations

- Lack of public confidence in the purpose of EA, the process, and decisions
- Importance of addressing sustainability and public interest
- Concerns beyond EA (regional planning, cumulative effects)

EA Revitalization Discussion Paper Overview

PROPOSED ENVIRONMENTAL ASSESSMENT PROCESS



Consensus among parties increases as process progresses, consistent with the United Nations Declaration on the Rights of Indigenous Peoples

Building Blocks

Setting the stage for successful project assessments

- Will need to build over time and will require work across government not just by EAO
- Province to establish G2G agreements and relationships with Indigenous nations, which may include EA
- Support independence of scientific data; recognize indigenous knowledge; advance availability of data across project EAs
- Introduce legal framework for regional and strategic EAs
- Province advances other, related strategic initiatives (e.g. PR, LUP, CEF)

Early Engagement

Building early understanding of issues and opportunities

- Engagement on initial project description; informs development of a detailed project description
- Indigenous nations identify if they have rights and title that would be impacted
- Engagement with Indigenous and provincial governments, local communities and the public
- Identification of potential key issues and consideration of how issues will be addressed
- Set timelines that would vary based on project and context
- Key document and process to inform “readiness” decision and subsequent EA scoping

Readiness Gate

Decision whether to commence and direction on the key issues

- EAO and Indigenous nations make a decision on EA commencement and provide direction on key issues
- Time bound alternative dispute resolution process
- Possible early decision by Minister and Indigenous governing bodies that a project is clearly irreconcilable with existing law or defined policy objectives supported by reasons for decision, or if a project should proceed directly to permitting

Alternative Dispute Resolution: EA Advisory Committee Recommendations

- Time-bound alternative dispute resolution process to:
 - Provide constructive direction
 - Support for reconciliation within the EA process
 - Address disputes arising from implementation of UNDRIP in the EA process
 - Apply indigenous laws and legal process to address disputes among Indigenous nations in areas of shared territories in relation to EAs when requested to do so

Process Planning

Set clear and predictable plans and requirements for the EA

- Establish:
 - scope, procedures and methods for EA
 - how provincial and Indigenous processes and decision-making will align
 - funding, timelines, and opportunities for public participation
- 180 days
- Technical Advisory Group

Application Development & Review

Iterative, participatory approach for the development and review of the project application

- Proponent conducts technical studies, seeking feedback from government and Indigenous nations
- Application Development: Feedback on data collection and analysis will help identify and resolve key issues, which reduces delays in final review stage
- Application Review: EAO, Indigenous nations and all EA participants review and comment on the draft application within time limits

Effects Assessment and Recommendation

Reaching assessment conclusions and making a recommendation to decision makers

- Potential effects assessed according to approach in Assessment Plan
- Proposed conditions and recommendation to decision-makers are developed
- Informed by advice from technical advisory group, and input provided by the public and local communities
- Bound by time set out in Assessment Plan (100 to 200 days)

Decision

Determining whether a project should receive an EA certificate and if so under what conditions

- Ministers make a decision:
 - In consideration of recommendations of the EAO,
 - In consideration of the decisions of Indigenous nations
 - According to defined decision criteria
- Ministers issue reasons for their decision
- Collaboration, earlier process agreements and dispute resolution mechanisms aim to contribute to consistency between provincial and Indigenous decisions

Post Certificate

Ensuring projects are in compliance with their EA certificates

- Ongoing monitoring, compliance inspections and, where required, enforcement actions
- Ensure that projects are designed, built, operated and decommissioned/reclaimed in compliance with their EA certificates
- Linkages with other agencies or groups that have a role in post-EA permitting or compliance and enforcement

EA Revitalization Next Steps

- Comment Period on the Discussion Paper until July 30th with interim reports on feedback received
- Ongoing engagement with Indigenous nations and stakeholders
- *What We Heard Summary* (expected August 2018)
- *Intentions Paper* (expected early September 2018)
- New legislation introduced
- Early Fall 2018: anticipated engagement with external stakeholders on the *Reviewable Projects Regulation*

